

## **MINUTES**

### **MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON PUBLIC HEALTH, WELFARE AND SAFETY**

**Call to Order:** By **CHAIRMAN AL BISHOP**, on February 16, 2001 at 3 P.M., in Room 317-A Capitol.

#### **ROLL CALL**

**Members Present:**

Sen. Al Bishop, Chairman (R)  
Sen. Duane Grimes, Vice Chairman (R)  
Sen. Chris Christiaens (D)  
Sen. Bob DePratu (R)  
Sen. Eve Franklin (D)  
Sen. Don Hargrove (R)  
Sen. Dan Harrington (D)  
Sen. Royal Johnson (R)  
Sen. Emily Stonington (D)

**Members Excused:** Sen. Jerry O'Neil (R)  
Sen. Fred Thomas (R)

**Members Absent:** None.

**Staff Present:** Jeanne Forrester, Committee Secretary  
Susan Fox, Legislative Branch

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: SB 459, 2/13/2001; SB 454,  
2/13/2001; SB 458, 2/13/2001;  
SB 466, 2/13/2001  
Executive Action: SB 459; SB 221; SB 341

#### **HEARING ON SB 459**

**Sponsor:** SEN. EVE FRANKLIN, SD 21, GREAT FALLS

**Proponents:** Ed Amberg, Director Warm Springs State Hospital

**Erin McGowan, Montana Council of Community Mental  
Health Centers**

**Gene Harrin, Board of Visitors**

**Sami Butler, Montana Nurses Association**

**Dr. Gary Mihelish, National Alliance for the Mentally  
Ill**

**Charley McCarthy, Mental Health Association of  
Montana**

**Opponents:** None

**Opening Statement by Sponsor:**

**SEN. EVE FRANKLIN, SD 21, GREAT FALLS** introduced SB 459. This is an act that would allow Advanced Practice Registered Nurses (APRN) with a clinical speciality in psychiatric mental health nursing perform examinations and to report and testify regarding a defendant's fitness to proceed. She presented a letter in support of SB 459 from **John Strandell EXHIBIT (phs39a01)** and another one from **Sharon Howard EXHIBIT (phs39a02)**.

**Proponents' Testimony:**

**Ed Amberg, Director of the State Hospital** said they are in support of this bill and when appropriate they would like to assign those responsibilities to an APRN.

**Erin McGowan, Montana Council of Community Mental Health Centers** said they are in support of this bill.

**Gene Harrin, Board of Visitors** said they support this bill because it expands access to mental health care.

**Sami Butler, Montana Nurses Association** said she is in support of this bill.

**Dr. Gary Mihelish, President of the National Alliance for the Mentally Ill in Montana** said they are strongly in support of this bill.

**Charley McCarthy, Mental Health Association of Montana** rose in support of this bill.

**Opponents' Testimony:** None

**Questions from Committee Members and Responses:**

**SEN. BISHOP** asked what does the term clinical speciality mean.

**SEN. FRANKLIN** said the nurses can specialize in different aspects of nursing such as administration, education, etc.

**Closing by Sponsor:**

**SEN. FRANKLIN** thanked the committee for a good hearing.

**EXECUTIVE ACTION ON SB 459**

**Motion/Vote:** **SEN. GRIMES** moved that **SB 459 DO PASS**. Motion carried 9-0.

**HEARING ON SB 454**

**Sponsor:** **SEN. MIGNON WATERMAN, SD 26, HELENA**

**Proponents:** **Jani McCall, Deaconess Billings Clinic**  
**Mona Jamison, Shodair Children's Hospital**  
**John Wilkerson, Children's Home**  
**Dan Anderson, DPHHS**  
**Jeff Olson**  
**Steve Yeakel, Montana Council for Maternal and Child Health**  
**Ann Westerman, Deaconess Billings Clinic**  
**Erin McGowan, Montana Community Mental Health Centers**  
**Marty Wangen, Montana Psychological Association**  
**Twill Cosign, Montana State Foster and Adoptive Parents Association**  
**Colleen Murphy, Montana Chapter of the National Association of Social Workers**  
**Gene Harrin, Board of Visitors**  
**Bonnie Adee, Mental Health Ombudsman**

**Opponents:** None

**Opening Statement by Sponsor:**

**SEN. MIGNON WATERMAN, SD 26, HELENA** introduced SB 454. This is an act to create a multiagency children's services initiative for children who require services from multiple agencies. Also, to have new care and treatment plans and services developed to treat children in the least restrictive environment. She said she has been working with the Mental Health Advisory Council to bring forth this bill. She also said the bill will terminate in June 2003. She passed out an information sheet about the Medicaid

costs of youth within the mental health program

**EXHIBIT** (phs39a03) .

**Proponents' Testimony:**

**Jani McCall, Deaconess Billings Clinic** said this bill gives an opportunity to look at children's services with multiple agencies. This bill would also have pool funding, which would have the departments put their funds together. For the first time, this bill would have a provider network component. She felt this bill would take them in the right direction.

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**Mona Jamison, Shodair Children's Hospital** passed out information **EXHIBIT** (phs39a04) about their concerns with SB 454.

**John Wilkerson, Children's Home** submitted a copy of his testimony **EXHIBIT** (phs39a05) .

**Dan Anderson, DPHHS** said they are in support of this bill.

**Jeff Olson** rose in support of this bill. He said it would eliminate duplication of services. He urged the committee to pass this bill.

**Steve Yeakel, Montana Council for Maternal and Child Health** said they were in support of this bill.

**Ann Westerman, Deaconess Billings Clinic** said they supported this bill.

**Erin McGowan, Montana Community Mental Health Centers** said they are in support of this bill because it makes sense.

**Marty Wangen, Montana Psychological Association** presented written testimony from Debra Sanchez **EXHIBIT** (phs39a06) . She urged a do pass on this legislation.

**Twill Cosign, Montana State Foster and Adoptive Parents Association** said they urged the committee to pass this bill.

**Colleen Murphy, Montana Chapter of the National Association of Social Workers** said this is the right direction to take, because we need to focus on children's mental health needs separate from adult mental health needs. She said they were happy to support this bill.

**Gene Harrin, Board of Visitors** said they are in support of this bill.

**Bonnie Adee, Mental Health Ombudsman** says she supports this bill.

**Opponents' Testimony:** None

**Questions from Committee Members and Responses:**

**SEN. DAN HARRINGTON** asked if this is the real answer or is it just the answer to the budget cuts that are coming down. **Ms. McCall** said she does believe this is the beginning of the answer to helping these kids.

**SEN. CHRIS CHRISTIAENS** said this is something that should have been done 20 years ago. He would like to know who is going to take the lead, because it is time to stop pointing fingers at each other and to start working together to solve these problems.

**SEN. WATERMAN** said **Gail Gray, DPHHS** will be working on this.

**SEN. EMILY STONINGTON** wondered if this bill was needed since everything in this bill is already in law. **SEN. WATERMAN** said this needs the stamp of approval from the Governor, the DPHHS, and the legislature.

**Closing by Sponsor:**

**SEN. WATERMAN** said this is an important message. It is the intention of the State of Montana to serve kids close to home, in their communities and to intervene early. She also wanted to go on record saying they are not going to add 57 FTE down in Finance and Claims, by creating a bureaucracy.

**HEARING ON SB 458**

**Sponsor:** **SEN. MIGNON WATERMAN, SD 26, HELENA**

**Proponents:** **Ed Amberg, Director Warm Springs State Hospital**  
**Charley McCarthy, Mental Health Association of Montana**  
**Dr. Gary Mihelish, National Alliance for the Mentally Ill**  
**Marty Wangen, Montana Psychological Association**  
**Gene Harrin, Board of Visitors**

**Opponents:** **Mike Grayson, Anaconda-Deer Lodge County**

**Joan Hays, Western Montana Mental Health**  
**Jane Jelinski, Montana Association of Counties**  
**Mike Menahan, Lewis and Clark County Attorney's**  
**Office**  
**Dr. George Archibald, St. Peter's Hospital**  
**Jim Smith, Montana Sheriff's and Peace Officers**  
**Bob Olsen, Montana Hospital Association**

**Opening Statement by Sponsor:**

**SEN. MIGNON WATERMAN, SD 26, HELENA** introduced SB 458. This bill is an act providing for prior authorization for admission to the Montana State Hospital. It is to clarify responsibility for costs for alternative placements. It will require the DPHHS to provide technical assistance to counties on the development of plans and to provide a reimbursement system to prevent inappropriate admissions to the Montana State Hospital. It will require a discharge plan for a patient who has been in the state hospital for more than ten days. Also, each person who is being discharged must receive appropriate referrals to aftercare and post discharge services.

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**Proponents' Testimony:**

**Ed Amberg, Director Warm Springs State Hospital** said this is an important piece of legislation for the state hospital. This bill will promote continuity of care and will help to better manage the resources that are available. It will make the process for admission to the state hospital more like the admission to get into any hospital. He said they want to see appropriate care provided to people in the most appropriate setting. This bill also includes that they work with community programs.

**Charley McCarthy, Mental Health Association of Montana** said they are supportive of this legislation.

**Dr. Gary Mihelish, National Alliance for the Mentally Ill** said they are in support of SB 458. He said the main thing that should be looked at are the community services. These need to be developed so people can stay in their own community.

**Marty Wangen, Montana Psychological Association** provided written testimony **EXHIBIT (phs39a07)**. She asked the committee to pass this legislation.

**Gene Harrin, Board of Visitors** said they support this bill.

**Opponents' Testimony:**

**Mike Grayson, Anaconda-Deer Lodge County** said they are opposed to this legislation. He submitted letters of testimony **EXHIBIT (phs39a08)**.

**Joan Hays, Western Montana Mental Health** said this bill has it backwards. It states it will set limits for the state hospital, and hopefully something will be developed in the community. She said we need regional systems in place, before we implement this bill.

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**Jane Jelinski, Montana Association of Counties** said they are in opposition of this bill. She presented letters of testimony in opposition of SB 458 and SB 466 **EXHIBIT (phs39a09)**.

**Mike Menahan, Lewis and Clark County Attorney's Office** said he is opposed to the bill, because this bill is taking away the authority from district courts. He urged the committee to kill the bill. He said section 2 should be reconsidered at a later time. That section deals with the development of community services.

**Dr. George Archibald, St. Peter's Hospital** said while he was testifying as an opponent, he is more concerned about the process of rule making. He is also concerned about the communications needed for finding placements for the patients if they are refused admission to the state hospital.

**Jim Smith, Montana Sheriff's and Peace Officers** passed out a letter from **Sheriff Chuck Maxwell EXHIBIT (phs39a10)**.

**Bob Olsen, Montana Hospital Association** said they spoke with Director **Gail Gray** today. She said they wanted to get a handle on the state hospital, that is as the most important thing she needed to do in the mental health system within the next two years. **Mr. Olsen** said he is concerned about this bill, because it does not say who will be doing what. He also said there are federal laws that deal with emergency medical conditions and govern how hospitals address a person's medical condition. He wants to make sure the new processes do not put the community hospitals or the state hospital in jeopardy by violating federal laws. He added it is very important to move slowly.

**Informational Witness:**

**Anita Roessman, Montana Advocacy Program** said her program does not do commitment proceedings, but they do get a lot of calls about people who are being committed and needing help. The commitment order time is typically less than 24 hours; sometimes that is too fast. The provisions of this bill could widen that time and, in some cases, would be better.

**{Tape : 2; Side : B; Approx. Time Counter : 0}**

**Questions from Committee Members and Responses:**

**SEN. EVE FRANKLIN** asked if in the new law would the state hospital have veto power. **Mr. Amberg** said it sounds like it does and that could be testified to the court.

**SEN. DAN HARRINGTON** wondered what would happen when a person should be committed but, under the new law, they could not be committed. **Mr. Amberg** said under the new process, the state hospital and the community hospitals would be working together, and they would mutually arrive at the most appropriate treatment option for that individual.

**SEN. HARRINGTON** asked if the reason this bill is coming through is to limit the number of people who can be put in the state hospital. **Mr. Amberg** said part of that is true. They have some real limits in terms of capacity, staffing allocations, and the budget.

**SEN. CHRISTIAENS** asked if they had addressed the necessary appropriations to develop the community services. **SEN. WATERMAN** said they have worked with a set number of dollars and those funds need to be shifted to fund those services in the community.

**SEN. CHRISTIAENS** asked if one of the purposes of this bill is the development of community services. **SEN. WATERMAN** said that is correct, but those services can only happen if they can reduce the population in the state hospital.

**SEN. CHRISTIAENS** asked if the 55 forensic patients could be served in the Xanthopoulos Building. **Mr. Amberg** said they could, but he was not prepared to talk about that today.

**{Tape : 3; Side : A; Approx. Time Counter : 0}**

**Closing by Sponsor:**

**SEN. WATERMAN** said she had spent more than an afternoon on this bill. She explained what this bill will do. When a person needs



active treatment and it is appropriate to be provided at Warm Springs, it will be provided there, as long as they have a bed. If they do not have a bed and it is appropriate for the patient to be served at Warm Springs, they will have to find an appropriate placement in a community and the state hospital will have to pay for it.

**HEARING ON SB 466**

**Sponsor:** SEN. MIGNON WATERMAN, SD 26, HELENA

**Proponents:** Mike Menahan, Lewis and Clark County Attorney's Office  
 Dr. Gary Mihelish, National Alliance for the Mentally Ill  
 REP. JOHN ESP, HD 25, BIG TIMBER  
 Dan Anderson, DPHHS  
 Gene Harrin, Board of Visitors  
 Cindy Dahl, Great Falls

**Opponents:** Anita Roessmann, Montana Advocacy Program  
 Kathy Kramenbach, Virginia City  
 Joan Hays, Western Montana Mental Health  
 Charley McCarthy, Mental Health Association of Montana

**Opening Statement by Sponsor:**

SEN. MIGNON WATERMAN, SD 26, HELENA introduced SB 466. This is the assisted out-patient treatment bill. It is an act to revise the mental health commitment statues. It would allow the court to order assisted outpatient treatment for a period not to exceed 12 months. She passed out some information **EXHIBIT(phs39a11)**. She said this is about a category of individuals which is not very large. These people are mentally ill, but because of their illness, many times they do not realize they are ill.

***{Tape : 3; Side : B; Approx. Time Counter : 0}***

**Proponents' Testimony:**

**Mike Menahan, Lewis and Clark County Attorney's Office** urged the committee to consider this bill and adopt it. He said his office deals with the same people over and over. Many of these people are committed to the state hospital, put on medication, and released. Once they are out of the hospital, many of them do not take their medication and the cycle starts over again. He

thinks the intensive level of supervision at the community level will prevent re-commitment to the state hospital.

**SEN. CHRISTIAENS** wondered if many of these people being seen, go on to impact the corrections system. **Mr. Menahan** said that is hard to say.

**Dr. Gary Mihelish, National Alliance for the Mentally Ill** passed out a copy of his testimony and a copy of the *NAMI Advocate* **EXHIBIT**(phs39a12). He said he is in support of this bill.

**REP. JOHN ESP, HD 25, BIG TIMBER** said he wanted to speak very briefly about what it is like to be a family member of someone who is seriously mentally ill. He said your personal life goes up and down. His sister-in-law was schizophrenic and she never knew she was. This bill will give a better quality of life to everyone involved.

**Dan Anderson, DPHHS** said this will be a tool to help those with mental illness.

**Gene Harrin, Board of Visitors** said they cautiously support this bill, as a necessary first step.

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**Cindy Dahl, Great Falls** said she is the mother of a schizophrenic son. She is worried about the future of her son. She hoped this bill would be an option to get him back in the system.

**Opponents' Testimony:**

**Anita Roessmann, Montana Advocacy Program** presented copy of her testimony **EXHIBIT**(phs39a13).

**Kathy Kramenbach, Virginia City** said she is opposed to SB 466. She said she has a bipolar disorder. She felt this bill would keep her from seeking treatment because she believes this bill would leave her vulnerable to the courts.

**Joan Hays, Western Montana Mental Health** said she would second what the committee has heard in opposition of this bill. She does not see a need to change the community commitment laws. She said the law contains everything that is needed to form a community commitment.

**Charley McCarthy, Mental Health Association of Montana** said they were opposed to this bill. They would like to work with the mental health boards to come up with something better for the people.

**Questions from Committee Members and Responses:**

**SEN. DUANE GRIMES** asked if do you see other ways this bill could be crafted. **Ms. Roessman** said the criteria for the third kind of commitment could be more narrowly written. Also, she thought section two should be tightened up.

*{Tape : 4; Side : B; Approx. Time Counter : 0}*

**SEN. GRIMES** asked what is your thought on the fact that the authorities could default on this. If there is a problem individual, rather than seeking the cause, would they commit him because he is off his medication. He then asked would they have a concern about an individual being automatically committed. **Dr. Mihelish** said he did not because the protections are already in place.

**Dr. Mihelish** said this law is directed mostly at people who are suffering from schizophrenia and bipolar disorder.

**SEN. GRIMES** asked if people were not going to be treated properly and instead they would committed. **Dr. Mihelish** said 50 percent of the people with mental illnesses abuse substances; therefore, they are not complying with their treatment. The DPHHS recently initiated a study committee to try to bring the mental illness people and the chemical dependency people together, to develop an integrated program.

**SEN. GRIMES** asked if they would object to the application of this bill, if someone is exhibiting mental illness and is involved in frequent criminal activity. **Ms. Roessman** said no, if this bill was written narrowly enough.

**SEN. CHRISTIAENS** said this is a very complicated bill and he hoped it would not have to meet the transmittal date.

**Closing by Sponsor:**

**SEN. WATERMAN** thanked the committee for a good hearing. She said she had been working with **Ms. Fox** for several months on this bill. Currently, she said a person can be committed for a three month period. If they have to be recommitted, they have to go through the entire process again. This is a waste of time and

resources. She pointed out in page four, the sheriff can only be called if all other reasonable steps have been exhausted. She asked the committee not to table this bill, but to pass the bill and have them work on it and come back in two years.

### EXECUTIVE ACTION ON SB 221

#### Discussion:

**SEN. GRIMES** said he would like to move to reconsider action on SB 221 for the purposes of amendments.

**SEN. GRIMES** explained the amendments **EXHIBIT**(phs39a14) SB022108.asf.

**SEN. STONINGTON** said she had some concerns about the "stand-alone" surgery centers in her community. She is also concerned about the Medicaid costs and the implications in the bill.

**SEN. CHRISTIAENS** wondered why the bill did not come in clean to the committee in the first place.

**Motion:** **SEN. GRIMES** moved to RECONSIDER ACTION ON SB 221.

**SEN. JOHNSON** said he would support the amendment.

**Vote:** Motion to reconsider action on SB 221 carried 6-4 with Christiaens, Franklin, Hargrove, and Stonington voting no. **SEN. THOMAS** voted by proxy.

**Motion/Vote:** **SEN. GRIMES** moved that SB 221 BE AMENDED SB022108.asf. Motion carried 9-0.

**Motion/Vote:** **SEN. JOHNSON** moved that SB 221 DO PASS AS AMENDED. Motion carried 5-4 with Christiaens, Franklin, Hargrove, and Stonington voting no.

### EXECUTIVE ACTION ON SB 341

#### Discussion:

**Ms. Fox** passed out the amendments to SB 341 **EXHIBIT**(phs39a15) SB034101.asf.

**SEN. GRIMES** said he was not convinced this is the correct way to proceed. He thought it was an underhanded way to limit tobacco sales.

**Motion/Vote:** **SEN. GRIMES** moved that **SB 341 BE TABLED**. Motion carried 5-4 with Bishop, DePratu, Hargrove, and Stonington voting no.

**ADJOURNMENT**

Adjournment: 6:45 P.M.

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SEN. AL BISHOP, Chairman

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JEANNE FORRESTER, Secretary

AB/JF

**EXHIBIT** (phs39aad)